

7/19/17

National Freedom of Information Officer
FOIA Public Liaison
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, D.C. 20460

Re: Freedom of Information Act Request

Dear Sir or Madam,

I am making this request under the Freedom Of Information Act ("FOIA"), 5 U.S.C. § 552. Please provide the following records maintained by your agency or for your agency by a government contractor:

- The agency's Congressional correspondence log or other records of the agency that track the receiving of Congressional communications, and information and briefing requests, including the date received, identity of sender, subject of the communication, office or official handling the response and date of agency response. Please provide the logs that record communications from January 1, 2015 to July 18, 2017.

The records should be provided to the Project On Government Oversight (POGO) in electronic format (e.g. PDFs, PST, spreadsheets) via email or on a CD-ROM. If electronic form is not possible due to a specific reason, we request a hard copy format.

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records will further the "public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest" of the requester, POGO. Specifically, POGO intends to use the requested records to increase public understanding of the operations of the agency and its processes for responding to Congressional oversight requests. If the request for a fee waiver is denied, please contact me about any incurred expenses prior to supplying the requested records.

I have included this FOIA Fee Waiver Supplement to provide a detailed account of POGO's planned use of the requested information and to fully respond to fee waiver criteria.

I request that the agency provide the information and documents on a rolling basis.

The subject of the request:

POGO is requesting records which will inform readers about Congressional oversight of the Executive Branch. We believe these records will allow us to better inform the public about the agency's commitment to responding to requests for information from Members of Congress.

The informative value of the information to be disclosed:

The information to be disclosed will likely to contribute to an increased public understanding of government activities as it relates to the federal agency commitment to responding to Congressional requests for information and the actions taken by the agency to fulfill that responsibility. There is a significant public interest in any matter involving Congressional oversight and the agency's cooperation with related requests. The information will also contribute to the understanding of key Constitutional questions about the checks and balances between the federal executive branch agencies, and the legislative branch, as well as requirements for the legislative branch to work with their constituents. Further, the Office of Legal Counsel's interpretation of May 1, 2017, titled "Authority of Individual Members of Congress to Conduct Oversight of the Executive Branch" represents a potential change to how federal agencies respond to congressional inquiries thereby affecting the public's ability to understand and engage with their congressional representatives. The information will therefore be valuable in understanding past and current effectiveness of the legislative branch's Constitutional roles and responsibilities for conducting oversight over the executive branch agencies.

The contribution to an understanding of the subject by the public likely to result from disclosure:

POGO investigates, exposes, and seeks to remedy systemic abuses of power and mismanagement in the federal government. Founded in 1981, POGO is a politically independent, nonprofit watchdog that promotes a government that is accountable to the citizenry. POGO disseminates information about its activities to the public, policymakers, and the media via email, direct mail, and its websites which receive nearly 70,000 unique visitors each month. The records provided by your agency will be used for the following activities, which are publicly available: publication by email and on POGO websites; publication in reports and newsletters issued by POGO;

publication in the newsletters of affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers; or in conjunction with the news media.

The significance of the contribution to public understanding:

Disclosure of the records is likely to contribute significantly to the public's understanding of the agency's commitment to responding to requests for information from Members of Congress and operations of the government. Members of Congress are elected representatives of the public, so there is a clear public interest in determining the degree with which federal agencies are responding to oversight inquiries being done on the public's behalf. Knowledge of these procedures can build public confidence in the government and in the processes currently in place for Congressional oversight of the Executive Branch. The requested records will bring a unique perspective to the public discussion surrounding the system of checks and balances and the impact of the recent DOJ OLC opinion on that system.

The existence and magnitude of a commercial interest:

POGO does not charge for access to its website, reports, newsletters, or other publications. In addition, we do not directly profit from increased viewership of our website, as it is advertisement-free.

The primary interest in disclosure:

POGO has no financial interest in the requested information as stated above. The primary interest in disclosure is that of the public interest.

Please note that the FOIA Improvement Act of 2016 codified the presumption of openness and requires agencies to only withhold information if "the agency reasonably foresees that disclosure would harm an interest protected by an exemption." However, there is no specific foreseeable harm associated with the requested records. Even records that reveal difficulty or challenges in setting and implementing policies for communications between the agency and Congress do not represent harm either to the agency or any other interest. The accountability and oversight that will result from disclosure of the requested records is a benefit for both the agency and the public. Therefore we do not believe that any of the records should be withheld.

If this request is denied in full or in part, please cite each exemptions pursuant to 5 U.S.C. § 552(b) that justifies each denial and an explanation of the foreseen harm. If an exemption applies, however, please exercise the agency's discretionary release powers to disclose the records. Any such action supports the presumption of "openness" on which FOIA is based upon.

Additionally, please release all reasonably segregable portions of the records that do not meet an exemption. 5 U.S.C. § 552(b).

I look forward to your response, including an individualized tracking number, within 20 days of the receipt of this request, unless, in the case of “unusual circumstances,” the time limitation is “extended by written notice.” 5 U.S.C. § 552(a)(6)(B). I am aware that all fees will be waived if specified time limits are not met. 5 U.S.C. § 552(a)(4)(A)(viii). I have a right to appeal if this request is wholly or partially denied or if the agency fails to respond within 20 days, and that, if successful, a federal district court may assess “reasonable attorney fees and other litigation costs.” 5 U.S.C. § 552(a)(4)(E).

Please contact me if this request requires further clarification. Thank you for your prompt attention to this matter.

Sincerely,



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